

FILED

NOT FOR PUBLICATION

FEB 17 2006

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

FREDRICK J. STAVES,

Defendant - Appellant.

No. 05-55609

D.C. No. CV-04-02318-DDP

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Dean D. Pregerson, District Judge, Presiding

Submitted February 13, 2006^{**}

Before: FERNANDEZ, RYMER, and BYBEE, Circuit Judges.

Fredrick J. Staves, a federal prisoner, appeals pro se from the district court's orders denying his Federal Rule of Criminal Procedure 41(g) motion seeking the return of six vehicles seized in connection with his arrest on federal criminal

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

charges, and denying his motion for a default judgment. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo the denial of a Rule 41(g) motion, *see United States v. Marolf*, 173 F.3d 1213, 1216 (9th Cir. 1999), and review for abuse of discretion the denial of a default judgment, *Eitel v. McCool*, 782 F.2d 1470, 1471 (9th Cir. 1986). We affirm.

The district court properly denied Staves' Rule 41(g) motion because it was premised on a notice provision in a statute repealed more than a year before the government seized the vehicles in question.

The district court did not abuse its discretion in denying Staves' motion for a default judgment because he did not "establish[] a claim or right to relief by evidence satisfactory to the court." *See* Fed. R. Civ. P. 55(e).

Staves' remaining contentions are without merit.

Staves' motion to file a late reply brief is granted. The Clerk shall file the reply brief received on August 10, 2005.

AFFIRMED